THE HON'BLE SRI JUSTSICE RAMESH RANGANATHAN

CRIMINAL PETITION NO. 5038 OF 2004

Date: 29.03.2006

Between:

1. Manager, Shriram Chits Pvt. Ltd., R.C. Road, Tirupathi and another.

… Petitioners/Accused No.2 and 3

and

1. State of A.P. rep.,by Public Prosecutor and another.

… Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CRIMINAL PETITION NO. 5038 2004

ORDER:

This petition is filed to have the proceedings in Cr.No. 58 of 2004 on the file of S.V. University Police Station, Tirupathi quashed.

2. Petitioners 1 and 2 are accused 2 and 3 in Cr.No. 58 of 2004. The complainant (the 2nd respondent herein) a business man alleged that the 1st

accused had collected a sum of Rs.10,00,000/- from him for depositing with the accused 2 and 3 and that the 1st accused was the Development Officer in 3rd accused company. A perusal of the contents of the complaint would show that when the *de facto* complainant enquired with the 3rd accused company, the company denied having received the said sum of Rs.10,00,000/- and thereafter when the *de facto* complainant accosted the 1st accused, he is said to have insisted that he had deposited the amount with the 3rd accused and in case it was established later, that the amount had not been so deposited the 1st accused would repay the amount with interest.

3. Sri C. Raghu, learned Counsel for the petitioners (accused No.2 and 3), would submit that even on the date on which the complaint was lodged, the complainant was well aware that it was the 1st accused who had taken the amount of Rs.10,00,000/- from him and that the company had denied having received the said amount. Learned Counsel would submit that since the complainant himself had requested the Deputy Superintendent of Police to take action against the 1st accused and since no specific request was made that action be taken against accused 2 and 3, it was clear that no case had been made out against the petitioners herein of their having committed the offences of which they are charged. Learned Counsel would further contend that the petitioners herein are charged of having committed offences under Sections 3, 4, 5 and 6 of the Prized Chits & Money Circulation Schemes (Banning) Act 1978 and under Section 420 IPC and that the ingredients of these provisions are not attracted. Learned Counsel would contend that the uncontroverted allegations in the charge sheet, even if taken as true, would not disclose any offence having been committed by the petitioners herein, since the allegations in the complaint, in the entirety relate only to the first accused.

While the submissions of Sri C. Raghu, learned Counsel for the petitioners, that the provisions of the Banning Act 1978 and Section 420 IPC are not attracted, is not without merit, one cannot loose sight of the fact that this criminal petition is filed to have the complaint in F.I.R.No. 58 of 2004 quashed, even before the matter has been investigated into. All the contentions now raised before this Court can certainly be raised after the matter is investigated into and in case a charge sheet is filed. The allegations in the

complaint relate to non-refund of Rs.10,00,000/-, alleged to have been received by the 1st accused as the Development Officer of the 3rd accused company and are all matters which require investigation.

The criminal petition is premature and is accordingly dismissed. Needless to state, that this order shall not preclude the petitioners herein, if they so choose, to invoke the jurisdiction of this Court under Section 482 Cr.P.C. after the charge sheet is filed.

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RAMESH RANGANATHAN, J

Date: 29.03.2006

MRKR